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VIA ECFS

Magalie Roman Salas, Secretary
Federal Communications Commission
The Portals
445 12th Street, S.W.
12th Street Lobby, TW-A325
Washington, D.C. 20554

**Re: Ex Parte Submission of Virgin Mobile USA, LLC
CC Docket No. 95-116**

Dear Ms. Salas:

Virgin Mobile USA, LLC ("VMU") files this *ex parte* submission in conjunction with the Petition for Declaratory Ruling ("Petition") filed by the Cellular Telecommunications & Internet Association ("CTIA") on May 13, 2003.¹ VMU is pleased that the Commission recently clarified the definition of the top 100 MSAs and the need for carriers to file *bona fide* requests ("BFRs") to obtain local number portability ("LNP") because continued uncertainty regarding these matters potentially threatened the November 24, 2003 wireless LNP implementation deadline.² VMU submits this *ex parte* to raise two issues concerning wireless LNP implementation: (1) the appropriate porting interval to resellers and prepaid wireless carriers; and (2) the information needed to validate a porting request.

I. PORTING INTERVAL

VMU is concerned that the standard porting interval for ports to resellers and prepaid wireless carriers may be longer than that for ports involving facilities-based providers, regardless of whether there is any technical justification for the distinction. To the extent the Commission adopts rules to define porting intervals, VMU respectfully requests that the porting interval for ports to wireless resellers and prepaid carriers be comparable to the corresponding porting

¹ See *Public Notice*, "Comments Sought on CTIA Petition for Declaratory Ruling on Local Number Portability Implementation Issues," CC Docket No. 95-116, DA 03-1753 (released May 22, 2003) ("*Public Notice*").

² See *In re Numbering Resource Optimization, Implementation of the Local Competition Provisions of the Telecommunications Act of 1996, Telephone Number Portability*, CC Docket 95-116, Fourth Report and Order (June 18, 2003). VMU is disappointed, however, that the Commission reversed its prior decision to eliminate BFRs. VMU respectfully submits that it would be much more efficient for carriers and beneficial to consumers to eliminate BFRs and require all wireless carriers in the top 100 MSAs to be LNP-capable as of the November 24, 2003 implementation deadline. The Commission should nonetheless confirm here that because wireless resellers cannot submit BFRs, they are automatically covered by BFRs submitted by their underlying facilities-based carriers.

interval for a port to facilities-based wireless carriers, an equivalence that will help preserve a level competitive playing field among wireless resellers and wireless licensees.

Current industry guidelines for the wireless porting process define a simple port as involving one wireless carrier porting to another carrier, and a complex port as involving a reseller, a prepaid number, multiple telephone numbers, or a wireline carrier.³ As a mobile virtual network operator (“MVNO”) offering a prepaid service, VMU could be treated as a reseller under industry guidelines.

VMU submits that wireless ports to a reseller should be classified as simple ports because the losing carrier is simply porting the number to another facilities-based carrier. A two-and-one-half hour interval is appropriate and feasible. Ports from a reseller, however, may be more involved because the facilities-based carrier must verify the customer information with the reseller. For ports determined to be complex, carriers should use commercially reasonable efforts to meet a 24-hour limit. Extensions should be permitted only if warranted by the technical complexity of the port rather than automatically lengthened by merely labeling a port as complex.

CTIA correctly points out that a lengthy porting interval would eliminate the consumer benefits of LNP by discouraging consumers from migrating to a new carrier despite the theoretical availability of LNP.⁴ VMU believes that categorically treating ports involving resellers and prepaid providers as complex and subject to disproportionately long intervals, regardless of whether such ports involve additional technical complexity, is discriminatory. A disproportionately long porting interval for ports to prepaid carriers and non-facilities based providers would place resellers at a competitive disadvantage with commercial mobile radio service (“CMRS”) licensees, which will be able to complete ports more quickly. The services offered by a MVNO such as VMU and those offered by CMRS licensees are perceived by consumers as being interchangeable so the porting interval for ports to MVNOs should be comparable to maintain a level competitive playing field. It would be contrary to the public interest in a competitive telecommunications market for MVNOs to be subject to an unduly long porting interval.

II. INFORMATION NEEDED TO VERIFY PORTING REQUEST

As part of VMU’s consumer-friendly service offering, VMU does not require its customers to provide detailed personal information, in part because VMU’s “pay as you go” service does not require monthly billing. It is therefore possible for customers to sign up for VMU’s service without providing their name or address. VMU considers this a benefit to those customers more circumspect about their privacy and guarded with their personal information.

For this reason, VMU is concerned that it may be unable to validate certain customer information in the context of porting requests. If VMU were to receive a port-out request containing a customer name, address, and social security number, VMU may be unable to verify this data. To adequately verify requests while continuing to respect the choices its customers make about the sharing of personal information, VMU recommends that the required information collected from wireless customers requesting a port include the telephone number and the account password. Without this information, VMU may be unable to verify port-out requests in

³ See, e.g., TSI Telecommunications Services, Inc., Guide to WLNP, 3d Edition, Feb. 2003, at p. 18.

⁴ Petition at 14-15.

a timely and efficient manner. As a result VMU may be unfairly disadvantaged—and its customers inconvenienced, merely because the company offers an innovative service that is less intrusive of its customers' personal information.

III. CONCLUSION

To the extent the Commission adopts rules to define porting intervals, VMU respectfully requests that ports to resellers and prepaid carriers be treated as simple, with an interval comparable to the corresponding porting interval for any other simple port. Ports out of a reseller, however, are more involved and may require additional time. Ports determined to be complex should be subject to a 24-hour porting interval. VMU also recommends that when a wireless customer requests a port, the information required to be collected include the customer's telephone number and the customer's account password. These wireless LNP implementation rules will help maintain a level competitive playing field among carriers in the marketplace while facilitating an efficient porting process.

Respectfully submitted,

/s/

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